

## 21 C.J.S. Courts § 152

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### Courts

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### IV. Terms and Sessions

#### D. Other Matters

## § 152. Seat of government

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Courts](#)  72, 74

**The highest court of the state ordinarily holds session at the seat of government; other courts may and should be held at the county seat unless holding them elsewhere is authorized by constitutionally valid legislation.**

Ordinarily, the highest court in a state is held at the seat of government,<sup>1</sup> and lower courts such as county, district, and circuit courts are generally and properly held at the county seat.<sup>2</sup> A constitutional or statutory provision that a court must be held at the county seat is mandatory, and the court cannot be held elsewhere;<sup>3</sup> but the legislature may authorize the holding of court at a place other than the county seat<sup>4</sup> unless it would violate some constitutional provision.<sup>5</sup>

The term "proceeding," for the purposes of a constitutional provision requiring that a court conduct its proceedings at the county seat in which a case is pending, includes summary judgment proceedings<sup>6</sup> but does not include the signing of an order.<sup>7</sup> Some jurisdictions allow nonevidentiary proceedings to be conducted by a judge at any place either within or outside the county in which an action is pending.<sup>8</sup>

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### Footnotes

<sup>1</sup> Ala.—*Merchants' Nat. Bank of La Fayette, Ind. v. McNaron*, 172 Ala. 469, 55 So. 242 (1911).

<sup>2</sup> N.J.—*Palmer v. Webster*, 14 N.J. Misc. 502, 186 A. 49 (Cir. Ct. 1936).

- 3                   Tex.—*Hachar v. Webb County*, 563 S.W.2d 693 (Tex. Civ. App. San Antonio 1978), writ refused n.r.e., (July  
5, 1978).
- 4                   Ark.—*Bonner v. Jackson*, 158 Ark. 526, 251 S.W. 1 (1923).
- 5                   Fla.—*Mack v. Carter*, 133 Fla. 313, 183 So. 478 (1938).
- 6                   Tex.—*Mellon Service Co. v. Touche Ross & Co.*, 946 S.W.2d 862 (Tex. App. Houston 14th Dist. 1997).
- 7                   Tex.—*Burns v. Bishop*, 48 S.W.3d 459 (Tex. App. Houston 14th Dist. 2001).
- 8                   Mo.—*Boyer v. City of Potosi*, 38 S.W.3d 430 (Mo. Ct. App. E.D. 2000).

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